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SENATE BILL 114

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Lidio G. Rainaldi

FOR THE JUDICIAL SYSTEM STUDY COMMITTEE

AN ACT

RELATING TO MAGISTRATE COURTS; PROVIDING FOR A MEDIATION FEE IN
CIVIL CASES; CREATING A FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] MAGISTRATE COURT MEDIATION FUND
CREATED- - ADMINISTRATION- - DISTRIBUTION. - -

A. The "magistrate court mediation fund" is created
in the state treasury. The fund shall be administered by the
administrative office of the courts.

B. All balances in the magistrate court mediation
fund are subject to appropriation for payment to magistrate
courts for the purpose of funding and administering voluntary
mediation programs. The mediation programs shall be
established by supreme court rule for the efficient disposition
of civil complaints.

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1 C. Payments from the magistrate court mediation
2 fund shall be made upon vouchers signed by the director of the
3 administrative office of the courts upon warrants drawn by the
4 secretary of finance and administration.

5 D. Any balance remaining in the magistrate court
6 mediation fund at the end of a fiscal year shall not revert to
7 the general fund.

8 Section 2. Section 35-6-1 NMSA 1978 (being Laws 1968,
9 Chapter 62, Section 92, as amended by Laws 2001, Chapter 277,
10 Section 2 and also by Laws 2001, Chapter 279, Section 2) is
11 amended to read:

12 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
13 "CONVICTED".--

14 A. Magistrate judges, including metropolitan court
15 judges, shall assess and collect and shall not waive, defer or
16 suspend the following costs:

17 docket fee, criminal actions under Section 29-5-1 NMSA
18 1978 \$ 1.00;
19 docket fee, to be collected prior to docketing any other
20 criminal action, except as provided in Subsection B
21 of Section 35-6-3 NMSA 1978 20.00.
22 Proceeds from this docket fee shall be transferred
23 to the administrative office of the courts for
24 deposit in the court facilities fund;

25 docket fee, ten dollars (\$10.00) of which shall be

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1 deposited in the court automation fund and fifteen
2 dollars (\$15.00) of which shall be deposited in the
3 civil legal services fund, to be collected prior to
4 docketing any civil action, except as provided in
5 Subsection A of Section 35-6-3 NMSA 1978
6 62.00;
7 jury fee, to be collected from the party demanding trial
8 by jury in any civil action at the time the demand
9 is filed or made 25.00;
10 copying fee, for making and certifying copies of any
11 records in the court, for each page copied by
12 photographic process50.
13 Proceeds from this copying fee shall be transferred
14 to the administrative office of the courts for
15 deposit in the court facilities fund; and
16 copying fee, for computer-generated or electronically
17 transferred copies, per page 1.00.
18 Proceeds from this copying fee shall be transferred
19 to the administrative office of the courts for
20 deposit in the court automation fund.

21 Except as otherwise specifically provided by law, docket
22 fees shall be paid into the court facilities fund.

23 B. Except as otherwise provided by law, no other
24 costs or fees shall be charged or collected in the magistrate
25 or metropolitan court.

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1 C. The magistrate or metropolitan court may grant
2 free process to any party in any civil proceeding or special
3 statutory proceeding upon a proper showing of indigency. The
4 magistrate or metropolitan court may deny free process if it
5 finds that the complaint on its face does not state a cause of
6 action.

7 D. As used in this subsection, "convicted" means
8 the defendant has been found guilty of a criminal charge by the
9 magistrate or metropolitan judge, either after trial, a plea of
10 guilty or a plea of nolo contendere. Magistrate judges,
11 including metropolitan court judges, shall assess and collect
12 and shall not waive, defer or suspend the following costs:

13 (1) corrections fee in any county without a
14 metropolitan court, to be collected upon conviction from
15 persons convicted of violating any provision of the Motor
16 Vehicle Code involving the operation of a motor vehicle,
17 convicted of a crime constituting a misdemeanor or a petty
18 misdemeanor or convicted of violating any ordinance that may be
19 enforced by the imposition of a term of imprisonment
20 \$10.00;

21 (2) court automation fee, to be collected upon
22 conviction from persons convicted of violating any provision of
23 the Motor Vehicle Code involving the operation of a motor
24 vehicle, convicted of a crime constituting a misdemeanor or a
25 petty misdemeanor or convicted of violating any ordinance that

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1 may be enforced by the imposition of a term of imprisonment
2 10.00;

3 (3) traffic safety fee, to be collected upon
4 conviction from persons convicted of violating any provision of
5 the Motor Vehicle Code involving the operation of a motor
6 vehicle 3.00;

7 (4) judicial education fee, to be collected
8 upon conviction from persons convicted of operating a motor
9 vehicle in violation of the Motor Vehicle Code, convicted of a
10 crime constituting a misdemeanor or a petty misdemeanor or
11 convicted of violating any ordinance punishable by a term of
12 imprisonment 1.00;

13 (5) brain injury services fee, to be collected
14 upon conviction from persons convicted of violating any
15 provision of the Motor Vehicle Code involving the operation of
16 a motor vehicle 5.00;

17 and

18 (6) court facilities fee, to be collected upon
19 conviction from persons convicted of violating any provision of
20 the Motor Vehicle Code involving the operation of a motor
21 vehicle, convicted of a crime constituting a misdemeanor or a
22 petty misdemeanor or convicted of violating any ordinance that
23 may be enforced by the imposition of a term of imprisonment as
24 follows:

25 in a county with a metropolitan court 24.00; and

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1 in any other county 10.00.

2 E. Metropolitan court judges shall assess and
3 collect and shall not waive, defer or suspend as costs a
4 mediation fee not to exceed five dollars (\$5.00) for the
5 docketing of small claims and criminal actions specified by
6 metropolitan court rule. Proceeds of the mediation fee shall
7 be deposited into the metropolitan court mediation fund.

8 F. Magistrate judges shall collect as costs a
9 mediation fee not to exceed five dollars (\$5.00) for the
10 docketing of civil actions, except as provided in Subsection A
11 of Section 35-6-3 NMSA 1978. Proceeds of the mediation fee
12 shall be deposited in the magistrate court mediation fund."

13 Section 3. Section 35-7-4 NMSA 1978 (being Laws 1968,
14 Chapter 62, Section 99, as amended) is amended to read:

15 "35-7-4. MAGISTRATE ADMINISTRATION-- MONTHLY
16 REMITTANCES.-- Each magistrate court shall pay to the
17 administrative office of the courts, not later than the date
18 each month established by regulation of the director of the
19 administrative office, the amount of all fines, forfeitures and
20 costs collected by him during the previous month, except for
21 amounts disbursed in accordance with law. The administrative
22 office shall return to each magistrate a written receipt
23 itemizing all money received. The administrative office shall
24 deposit the amount of all fines and forfeitures with the state
25 treasurer for credit to the current school fund. The

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1 administrative office shall deposit the amount of all costs,
2 except all costs collected pursuant to Subsections D [~~and E~~]
3 through F of Section 35-6-1 NMSA 1978, for credit to the
4 general fund. The amount of all costs collected pursuant to
5 Subsections D [~~and E~~] through F of Section 35-6-1 NMSA 1978
6 shall be credited as follows:

7 A. the amount of all costs collected pursuant to
8 Paragraph (1) of Subsection D of Section 35-6-1 NMSA 1978 for
9 credit to the local government corrections fund;

10 B. the amount of all costs collected pursuant to
11 Paragraph (2) of Subsection D of Section 35-6-1 NMSA 1978 for
12 credit to the court automation fund;

13 C. the amount of all costs collected pursuant to
14 Paragraph (3) of Subsection D of Section 35-6-1 NMSA 1978 for
15 credit to the traffic safety education and enforcement fund;

16 D. the amount of all costs collected pursuant to
17 Paragraph (4) of Subsection D of Section 35-6-1 NMSA 1978 for
18 credit to the judicial education fund; [~~and~~]

19 E. the amount of all costs collected pursuant to
20 Subsection E of Section 35-6-1 NMSA 1978 for credit to the
21 metropolitan court mediation fund; and

22 F. The amount of all costs collected pursuant to
23 Subsection F of Section 35-6-1 NMSA 1978 for credit to the
24 magistrate court mediation fund."

25 Section 4. EFFECTIVE DATE. --The effective date of the

. 142404. 1

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1 provisions of this act is July 1, 2003.

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